

)

)

)

)

)

)

1

DECISION

DECISION

DECISION

DECISION

DECISION

Docket No. 1793
Correctional Sergeant
Robert McClendon
Star # 5557

staff on November 20, 2014. Regardless of whether or not Merit Board Members were properly appointed during a given term, the Merit Board, as a quasi-judicial body and statutorily created legal entity, maintained at all times a clerical staff not unlike the Clerk of the Circuit Court ("Administrative Staff"). These Administrative Staff members receive and date stamp complaints, open a case file, assign a case number, and perform all of the functions typically handled by the circuit clerk's office. Just as a timely filed complaint would be accepted by the circuit clerk even if there were no properly appointed judges sitting on that particular day, so too was the instant Complaint with the Administrative Staff of the Merit Board. Accordingly, the Complaint filed on November 20, 2014 commenced the instant action, was properly filed, and will be accepted as the controlling document for calculating time in this case.

Findings of Fact

The Sheriff filed a complaint on November 20, 2014. The Sheriff is requesting termination.

On March 2, 1993, Respondent was appointed a Correctional Officer and on October 28, 2012 was assigned to the Receiving Classification Diagnostic Center ("RCDC") of the Cook County Department of Corrections ("CCDOC"), located at 2700 S. California Avenue, Chicago, Illinois 60608. On January 28, 2016, Respondent suspended due to an incident that took place on January 24, 2016. (Tr. 254)

OPR Investigator [REDACTED] was assigned to investigate this case. [REDACTED] testified that his job responsibilities are to investigate allegations of misconduct against Cook County Sheriff's Office staff and has at least 50 or more cases where the allegations were use of excessive force against detainees (R. 23). Throughout the investigation [REDACTED] gathers all reports, any videos and begins interviewing witness and usually interviews the accused; he also reviews all the general orders that may have been violated and he turns in a report with a finding of either sustained or unsustained (R. 25). [REDACTED] testified that he was present during the interview of the Respondent which took place on February 26, 2014 with the Respondent, Assistant Director [REDACTED] and Teamsters Union representative [REDACTED]. (R. 28). During the interview, when questioned stated that he may have exercised one or two strikes to gain control of the detainee (R.30). At the interview the video of the incident was playing and [REDACTED] noticed the differences regarding the amount of punches thrown at the detainee. (R. 37, 38).

Sergeant [REDACTED] testified that he has worked for the Cook County Sheriff's Department for 18 years and has been a sergeant in the Use of Force Review Unit for the past 4 years. (R. 62, 63). [REDACTED] testified that in the Use of Force Unit they review the documentation and report writing on use of force for all officers and that it must be accurate. (R. 64). [REDACTED] testified that any officers can be recommended for supplemental use of force training and in fact the Respondent attended remedial training on December 19, 2013. (R 66, 68). [REDACTED] testified that none of his staff ever told any of the participants that attending

Docket No. 1793
Correctional Sergeant
Robert McClendon
Star # 5557

remedial training would be in lieu of discipline that may come. (R. 72). [REDACTED] also testified that he does not have the authority to discipline or override discipline for any officers. (R. 72).

Officer [REDACTED] testified that she is a correctional officer whose duties are mostly to maintain order and move inmates about the process and that she is currently in receiving. (R. 85, 86). [REDACTED] testified that she is the wife of the Respondent and that she recalled the incident with detainee Page. (R. 86, 87). [REDACTED] watched the video and identified the cell where the altercation took place and identified that her husband, the Respondent, on the video. (R. 89).

Sergeant [REDACTED] testified that she is a sergeant in the Cook County Sheriff's Office in the Receiving Department and that she was the Respondent's supervisor on the day of the incident and that she witnessed the interaction between he and the detainee. (R 106, 107). [REDACTED] testified that she witnessed the Respondent use force against the detainee and that she grabbed the Respondent to remove him from the area because what he was doing was not helping the situation. (R 109, 111, and 112).

Respondent [REDACTED] testified that he was familiar with the General Orders as well as the John C. Desmedt Use of Force Model (R. 163). Respondent testified that he struck the detainee multiple times and that Sgt. [REDACTED] grabbed his arm and ordered him out of the cell. (R. 171, 179, 181, 186, 187). Respondent admitted that an officer is not allowed to use excessive force if a detainee spits on him. (R. 202). The video shows that Respondent hits the detainee at least five times within a six second period. (R. 218). Respondent testified that he did not speak with any officers before he filled out his reports and that the only report, he makes of striking the detainee is "one closed hand strike to the side of the stomach." (R. 229).

Conclusion

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given by the evidence in the record, the Board finds that Respondent violated the Cook County Sheriff's Department Rules and Regulations, General Order #11.2.1.0 Response to Resistance/Use of Force; General Order 11.2.2.0 Response to Resistance/ Use of Force Duties, Notifications and Reporting Procedures General Order #24.9.1.0 Reporting Incidents and Cook County Sheriff's Department Merit Board Rules and Regulations Article X, Paragraph B. There was an administrative review of this case in which the Court affirmed the Respondent's violations of the rule and orders and remanded the case to admit the collective bargaining agreement. The collective bargaining agreement requires discipline be given for cause and consider a number of issues including whether the employee was adequately warned of the consequences and the seriousness of the circumstances. Respondent testified that he knew the General Orders and that he was not allowed to use excessive force. (R 200). Respondent struck the detainee at least five times within a six second period. (R. 218). Respondent admitted that he was the only officer inside the cell that was throwing strikes or punches at the detainee. (R.

Docket No. 1793
Correctional Sergeant
Robert McClendon
Star # 5557

222). Respondent admitted that he was instructed to leave the cell by Sgt. [REDACTED] and in fact [REDACTED] needed to grab the Respondent by his shirt and pull him away from the detainee. (R218, 219, 220). Even after being told to leave by his superior officer he came back into the cell. (R. 220). Respondent admitted that it is important to fill out accurate reporting. (R.223).

Order

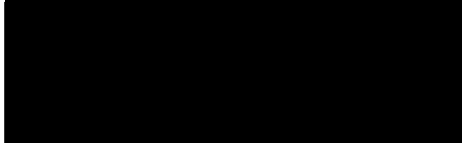
Wherefore, based on the foregoing, it is hereby ordered that Respondent Robert McClendon be terminated from the Cook County Sheriff's Office effective November 20, 2014.


1793 Robert McClendon CO
Correctional Officer

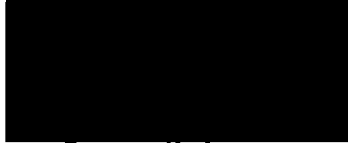

James P. Nally, Chairman


John Dalicandro, Secretary

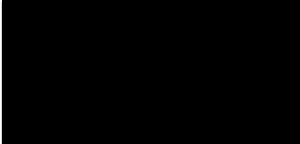

Vincent T. Winters, Board Member


Patrick M. Brady, Board Member


Byron Brazier, Vice-Chairman


Kim R. Widup, Board Member


Juan L. Baltierres, Board Member


Kimberly Pate Godden, Board Member

Date

June 21, 2019

**COOK COUNTY SHERIFF'S
MERIT BOARD**

SHERIFF OF COOK COUNTY

V.

**CORRECTIONAL OFFICER
ROBERT MC CLENDON**

**EMPLOYEE # [REDACTED]
STAR # 5557**

Docket #1793

DECISION

THIS MATTER COMING ON to be heard pursuant to notice before Vincent T. Winters, a Board Member, and the Cook County Sheriff's Merit Board finds as follows:

Jurisdiction:

1. The Respondent, Robert McClendon, was appointed a Correctional Officer on March 2, 1993.
2. On October 28, 2012 the Respondent was assigned to the Receiving Classification Diagnostic Center ("RCDC") of the Cook County Department of Corrections ("CCDOC"), located at 2750 S. California Avenue, Chicago, Illinois 60608.
3. Respondent's position as a Correctional Officer involves duties and responsibilities to the public; and
4. Each member of the Cook County Sheriff's Merit Board, hereinafter "Board", has been duly appointed to serve as a member of the Board pursuant to confirmation by the Cook County Board of Commissioners, State of Illinois, to sit for a stated term; and
5. The Board has jurisdiction of the subject matter over this proceeding as well as the parties in accordance with Chapter 55 of the Illinois Compiled Statutes; and

6. Respondent was personally served with a copy of the Complaint against him as well as Notice of Hearing and appeared before the Board to originally contest the charges contained in the Complaint with counsel as well as appearing for the hearing date, status, and ultimately trail; and
7. The Board has heard the evidence presented by the Sheriff and the Respondent, and evaluated the credibility of the witnesses and supporting documents.

Background:

By complaint dated November 20, 2014, the Sheriff Thomas J. Dart, sought termination of the Respondent. The complaint alleges that Respondent violated the Rules and Regulations and General Orders of the Cook County Department of Corrections and Rules and Regulations of the Cook County Merit Board, specifically: Sheriff's Order 11.2.1.0 Response to Resistance/ Use of Force Policy, II. Policy, V. Definitions E., VII. Guidelines B. and E., X. A. 5, 6, 7; XIII. Applicability A., B., C.; General Order 24.9.1.0 II. Policy, VII. A. 1., 2., C., F. 2. VIII. Applicability; Sheriff's Order 11.2.20.0 II. Policy, III. Applicability, VI. A. 2, B. 1, 2, D. 3; as well as the Cook County Sheriff's Department Merit Board Rules and Regulations Article X, Paragraph B, 3.

Issues Presented:

Whether the actions of the Respondent violated any of the General Orders and Rules and Regulations set forth above and what discipline is warranted if a violation occurred.

Resolution of Issues:

We the Board find that Respondent did violate the Rules and Regulations and General Orders of the Cook County Department of Corrections and Rules and Regulations of the Cook County Merit Board, specifically: Sheriff's Order 11.2.1.0: II., V; VII., B. and E; X., A. 5, 6, and 7; XIII., A, B, and C; General Order 24.9.1.0: II., VIII., A. 1 and 2; C, ad F. 2, VIII; Sheriff's Order 11.2.20.0: II., III. VI. A. 2, B. 1. And 2; D. 3; as well as the Cook County Sheriff's Department Merit Board Rules and Regulations Article X, Paragraph B 3.

Factual Background

An evidentiary hearing was held on September 24 and continued on October 27, 2015. Present was the Sheriff through counsel as well as the Respondent and Respondent's counsel. Testimony was taken from the Respondent, Robert McClendon, as well as other witnesses called on behalf of the Sheriff and the Respondent. The Sheriff admitted items 1 thru 9 and 11 thru 13 into evidence. The Respondent admitted items 1 and 2 as well as 14, 17, 18 and 19 into evidence.

Sheriff's Case

██████████

The Sheriff called ██████████ an investigator for the Cook County Sheriff's Office of Professional Review, who testified that he has been an investigator for nine years and prior to being an investigator he was a Lieutenant with the Chicago Police Department. As an investigator ██████████ has investigated more than 50 excessive force cases against detainees and was assigned to investigate the allegations against Robert McClendon. During the course of his investigation, ██████████ viewed the video numerous, numerous times, interviewed the alleged victim, everyone that responded to the scene that was in the video, looked at the incident reports and the Use of Force Report relative to the incident. ██████████ discussed what the procedure is when OPR interviews correctional officers who have been accused of wrongdoing. He testified that he typed his notes from what McClendon told him about the incident and that, McClendon was able to read the report and make any changes that he wanted to prior to signing. At this meeting ██████████ testified that along with him and McClendon, there was Assistant Director ██████████ and Teamsters Representative ██████████ and that he gave McClendon the notice of allegations, notice of administrative proceedings rights and the waiver of counselor

request to secure legal counsel. McClendon and [REDACTED] both signed off on all three forms. After McClendon was notified of the allegations, he explained his side of the story of how the detainee, [REDACTED] spit in his face while attempting to get him into the holding cell and that once in the holding cell the detainee flooded the cell. When McClendon and his partner were trying to take control of the detainee he was not complying with their verbal commands and was fighting with them. During McClendon's version of the incident, [REDACTED] asked him if he punched the detainee which McClendon responded that he may have exercised one or two strikes against the detainee to gain control. McClendon also never told [REDACTED] that he had been to remedial training on excessive force and that he should not be disciplined for the incident because he already had been. [REDACTED] went on to testify about what the video of the incident showed. First [REDACTED] was asked about the incident that took place at approximately 2:55:50 on the video. The video shows that the detainee flooded his cell and that he was against the retaining wall with McClendon on the left of the detainee and his partner on the right. The video played thru until 2:56:20 at which point it was paused and the Sheriff open another video that captured the incident prior to going into the cell. After watching both video's [REDACTED] was asked if there were any differences between McClendon's report and the videos. [REDACTED] testified that the amount of punches that McClendon claimed that he threw was the biggest difference and based on the video he believed that McClendon violated Sheriff's Order 11.2.1.0, VII, Section E, which prohibits the use of excessive force against detainees.

Cross-examination:

[REDACTED] testified that his investigation of McClendon was more than six months after the alleged incident and that he did not give McClendon any documents to review prior to the investigation because he does not generally do that. [REDACTED] was asked whether he was in control of the

interview between him and McClendon, which he admitted to. [REDACTED] was then asked about the Sheriff's Use of Force Policy which is the John C. Desmedt Integrated Use of Force Model.

[REDACTED] was asked if he was aware that [REDACTED] spit at McClendon, which he answer that he was and then was asked a number of questions about his investigation and whether he was a use of force instructor. [REDACTED] testified that he was not a use of force instructor but he was aware of the Sheriff's policy on attack management.

[REDACTED]

Sergeant [REDACTED] testified that he is employed by the Cook County Sheriff in the Department of Use of Force Review Unit and has been with the Sheriff for 18 years and the last 4 in this unit. His job duties include reviewing all use of force cases within the Sheriff's Department to include Sheriff's Police, Corrections, and Court Services. This specific unit was created in 2011 as an agreement between the Cook County Sheriff's Office and the Department of Justice. [REDACTED] testified regarding the importance of report writing on the use of force. The Use of Force Unit reviews all reports to see if they cover the incident correctly, whether the officer put everything that was relevant to the incident, tactics used, where the officers were, what happened, how it happened and how it started. [REDACTED] testified that it is very important to properly document any use of force incidents in case the Sheriff's Office gets sued over an excessive force incident. He went on to testify that his unit provides annual use of force training and that back in December 2013 his unit provided an eight-hour class where they re-covered what they normally cover in the in-service but just in a little more depth because this was an eight hour training seminar compared to the usual four hour course. [REDACTED] testified that officers can be recommended for supplemental training, he went on to say that he conducted a remedial training session in December 2013 on the use of force. At this December 19th, 2013 use of force

remedial training, [REDACTED] testified that McClendon's name appeared on the sign-in sheet and that during the course of the training he never told any of the officers that by attending and completing the training they would not receive discipline. [REDACTED] went on to say that he has never advised any of his classes that the training is in lieu of discipline, he also testified that he does not have the authority to discipline officers nor does he have the authority to override any discipline that may be imposed on officers.

Cross-examination:

[REDACTED] was asked if he was familiar with the John C. Desmedt Protective Safety Systems Use of Force Model and he responded that he was, he was then asked if he was certified as an instructor by Protective Safety Systems, which he answered in the affirmative and he testified that he was taught how to interpret the model. [REDACTED] went on to explain that he trains officers that the reasonableness of use of force is determined by looking at all the facts and circumstances confronting the officer at the time the force is used and that the reasonableness is viewed from the perspective of a reasonable officer on the scene, not in hindsight. [REDACTED] was asked if he taught officers that the use of force is judged by the totality of the circumstances and the resistance of the violator which he answered in the affirmative.

[REDACTED]

Officer [REDACTED] testified that she is a correctional officer for the Cook County Sheriff's Office and that she works in receiving. [REDACTED] testified about the incident on August 7th, 2013 between an inmate and [REDACTED] R McClendon, that occurred in the bullpen cell. [REDACTED] watched the video of the incident that took place in the bullpen cell where the inmate flooded the cell, she testified that the detainee spit at [REDACTED] and that [REDACTED] R. McClendon began swinging his arm. At that point the video shows [REDACTED] attempting to

reach [REDACTED] so that he would help his partner get the detainees arms behind him so they could handcuff him. During the video it shows [REDACTED] pushing [REDACTED] away from the detainee because she believed that the detainee's rage was directed at R. McClendon.

Cross-examination:

[REDACTED] testified that the bullpen cell did not have a floor drain and that when she walked in she was standing in water because the toilet was still overflowing. [REDACTED] went on to testify that the detainee was given orders that he wasn't obeying and that he attempted to spit on her. She went on to testify that in her lay opinion [REDACTED] didn't use any force that was inconsistent with the model.

[REDACTED]

Sergeant [REDACTED] testified that she is employed by the Cook County Sheriff in the Receiving Division and that on August 7th, 2013 she was working with R. McClendon. [REDACTED] went on to testify that she saw an altercation between detainee [REDACTED] and R. McClendon in a bullpen cell. The detainee flooded the cell and [REDACTED] was asking him to come out so that the officers could place handcuffs on him, but [REDACTED] was being non-compliant. At that point R. McClendon and his partner went into the cell and began giving the detainee verbal orders to put his hands behind his back and turn around but that he wasn't listening. Once the officers entered the cell [REDACTED] was spitting at R. McClendon and when [REDACTED] was not listening to their order they used necessary force to try and get him to comply by getting his hands behind his back so that they could cuff him. [REDACTED] was shown the video and was asked why she was grabbing R. McClendon and she responded that [REDACTED] was spitting at R. McClendon and that R. McClendon was striking him and that the situation was not getting resolved. [REDACTED] testified that [REDACTED] spit on her face and that she was trying to remove R. McClendon away from [REDACTED] because the

situation was escalating and what R. McClendon was doing was not helping the situation. Initially R. McClendon was not complying with Sergeant [REDACTED] directive to leave the area but that [REDACTED] grabbed R. McClendon by his shirt collar and finally pulled him away. [REDACTED] testified that she wanted R. McClendon out of the area so that she could gain control of the situation.

Cross-examination:

[REDACTED] testified that she was R. McClendon's supervisor on August 7th, 2013 and that according to the General Orders of the Department both her and R. McClendon were required to prepare reports regarding the incident. [REDACTED] re-affirmed that she believed that if R. McClendon was away from [REDACTED] that his target would be gone and that she would be able to get control of the situation. R. McClendon's partner Officer [REDACTED] was able to take [REDACTED] to the ground once R. McClendon was removed from the area. [REDACTED] testified that once R. McClendon was removed from the area [REDACTED] resistance became less.

[REDACTED] (via Skype):

[REDACTED] testified that he has been employed with the University of Tennessee, County Technical Assistant Service, as the jail management consultant for the past 8 years. Prior, he was the chief of corrections for the Hamilton County Sheriff's Office. [REDACTED] testified that he was retained by the Cook County State's Attorney to serve as an expert witness and is being compensated at \$90 per hour. He went on to testify that he reviewed the OPR report, incident reports from the officers involved, the Sheriff's Orders, two separate videos as well as PowerPoints on report writing and response to resistance that the Cook County Sheriff's Office uses. [REDACTED] testified that when [REDACTED] was in the hallway and R. McClendon and [REDACTED] had him up against the wall the blow to [REDACTED] head by R. McClendon was not justified and was excessive. At 2:56:06 of the

video, [REDACTED] testified that R. McClendon's strike to [REDACTED] was not appropriate because both officers had [REDACTED] pinned and bent over the retaining wall. At 2:56:09 there were a series of four strikes that were made by R. McClendon that [REDACTED] believed were not appropriate because [REDACTED] was still pinned up against and over the retaining wall and that the officers had regained control of [REDACTED]. A few seconds later at 2:56:14, R. McClendon again strikes [REDACTED] in the head and [REDACTED] testified that was not appropriate because there was no threat at that point in time. [REDACTED] testified, based on watching the videos, his experience of reporting the who, what, when, where, and how in incident reporting, use of force writing as well as the document R. McClendon submitted as his use of force or incident report that in his opinion R. McClendon failed to document or report the incident that occurred in the hallway as well as the incident relating to all of the force that was utilized inside the holding cell. [REDACTED] also testified that in his opinion, R. McClendon did not act in a professional manner due to the multiple strikes that he threw, the position that put his fellow officers in, shifting their focus away from [REDACTED] to restrain, pull and tug on R. McClendon and trying to remove the officer from the cell. [REDACTED] also testified that in his opinion R. McClendon did not act in a professional manner when he wrote his reports because his report was not consistent with the Sheriff's Orders as it relates to report writing, specifically "the report admitted a myriad of details that occurred in two separate incidents."

Cross-examination:

[REDACTED] was asked if he advertised his services as a witness and he responded that he does not. He testified that he received a phone call and asked if he was interested in exploring being a witness and he submitted his resume. [REDACTED] testified that this was the first time that the Sheriff had retained him to give testimony. [REDACTED] was asked a number of questions regarding his CV, his experience in the Marines, the other jails that he worked in as well as the materials that he

reviewed in preparing for his testimony. [REDACTED] also testified about the trainings that he has done when officers are under stress and then they must write reports immediately following and sometimes the reports do not match up to what actually happened.

Redirect:

[REDACTED] testified that although there are times when officers coming out of very stressful situations are not going to remember every single detail that occurred during an incident in his opinion McClendon failed to properly document the 2 separate incidents, the one in the hallway and the one in the holding cell.

Respondent's Case:

[REDACTED]

Officer [REDACTED] testified that he has been a Cook County Correctional Officer for 25 years and that he was in the same remedial use of force training on December 19th, 2013. [REDACTED] also testified that Sergeant [REDACTED] was the moderator of the training and that the instructor told them that "everyone in this class, this is in lieu of any disciplinary action you guys might have gotten had you not come to the class and that no disciplinary action can come to anyone in this class, because this class is in lieu of any disciplinary action that you guys might have gotten."

[REDACTED]

Officer [REDACTED] testified that she has been a Cook County Correctional Officer for 20 years and that on August 7th, 2013 she was assigned in receiving, female discharges. [REDACTED] testified that she had to go over to the bullpen because a cell was flooded and when she arrived there were other officers inside the cell and that a detainee was being combative and was refusing to be

handcuffed. [REDACTED] testified that in her lay opinion she did not believe that R. McClendon used force against the detainee that was in violation of the Sheriff's Use of Force Policy.

Cross-examination:

Officer [REDACTED] testified that she did not see R. McClendon use any force during the incident and because of that she could not have violated the policy for using excessive force.

[REDACTED]

Officer [REDACTED] testified that he has been a Cook County Deputy Sheriff for nine years and that on August 7th, 2013 he was assigned to male holding and that in the course of his shift he encountered a detainee named [REDACTED]. [REDACTED] described that [REDACTED] had bed linens that he was not permitted to bring into the cell area for fear that he might use it to hang himself. [REDACTED] was getting agitated because of the directives he was being given and [REDACTED] was trying to remove an item from his hand which [REDACTED] was resisting. [REDACTED] testified that by watching the video you cannot measure the amount of resistance that [REDACTED] is giving him and R. McClendon. [REDACTED] then testifies about the incident in the bullpen cell when he and R. McClendon encounter [REDACTED] again. He explains that he must go into the cell because [REDACTED] has flooded the cell and when he and R. McClendon go into the cell they are giving [REDACTED] verbal commands, which he does not comply with, and he backs up against the wall which makes it more difficult to gain control of the detainee. [REDACTED] testified that during this encounter with [REDACTED] he had concern not only for himself but also for his fellow officers.

Cross-examination:

[REDACTED] testified that he did not see McClendon throw any punches or strikes at [REDACTED] because he was squarely focused on [REDACTED]. [REDACTED] again testified that he was concerned about his safety but that he never threw any punches at [REDACTED]. When he entered the cell [REDACTED] testified that the water

from inside the cell had not reached the hallway and that [REDACTED] did not listen to any of his verbal commands. [REDACTED] testified that he knew walking into the cell that he was going to be dealing with a combative detainee based on the actions that occurred earlier between [REDACTED] and R. McClendon and that he was going to have to use force to get [REDACTED] handcuffed.

Robert McClendon:

R. McClendon testified that he has been a Cook County Correctional Officer for 22 years and that on August 7th, 2013 he was working in male holding. At some point during his shift he encountered detainee, [REDACTED] [REDACTED] was requesting protective custody and had to be transferred so he needed to be placed in the bullpen or the holding cell. McClendon reiterated [REDACTED] testimony that inmates are not allowed to bring personal property into the bull pen but that [REDACTED] was not complying with his verbal commands to drop his belongings. Because [REDACTED] was not complying R. McClendon and [REDACTED] try and gain control over [REDACTED] and force him into the bullpen, at some point during this encounter R. McClendon struck [REDACTED] with a forearm in the face to try and get [REDACTED] to cooperate. After the forearm, R. McClendon testified that [REDACTED] slowed down a little but was still combative. Once [REDACTED] was inside the bullpen cell he spit at R. McClendon and then the cell door was released and closed. At this point R. McClendon went thru [REDACTED] belongings to make sure he did not have any other contraband.

R. McClendon then began to describe what happened when he and [REDACTED] entered the flooded bullpen cell and testifies that [REDACTED] does not comply with the verbal orders that he was getting from [REDACTED] and R. McClendon describes that he strikes [REDACTED] to gain control over him. R. McClendon was asked if [REDACTED] was ever controlled and he answered that he was not so he continued to strike [REDACTED] in an attempt to get him under control. While [REDACTED] and R. McClendon are attempting to control [REDACTED] [REDACTED] the [REDACTED] walks into the

cell. At this point R. McClendon believed that [REDACTED] was trying to spit and head but [REDACTED] and R. McClendon testifies that he strikes [REDACTED] again to gain control of the situation. R. McClendon then describes that his supervisor Sergeant [REDACTED] grabs his arm and orders him to back down and that she was going to control the situation. R. McClendon testified that he did not use any force that was not necessary according to his perception of the situation and that while writing his report he was not being evasive with his answers. R. McClendon went on to testify about his remedial education class in which Sergeant [REDACTED] was the instructor and said that [REDACTED] told him that his training was in lieu of any other kind of discipline.

Cross-examination:

On cross R. McClendon was asked if he was aware that under the Sheriff's general order he could not use force as punishment or for retaliation, which he answered in the affirmative. R. McClendon also answered in the affirmative that on August 7th, 2013 detainee [REDACTED] was combative and was an aggressor throughout the incident. R. McClendon was asked why in the hallway before [REDACTED] was forced into the bullpen and before he spit at R. McClendon did he give [REDACTED] a forearm and R. McClendon responded to stun [REDACTED] and try and gain control of him. R. McClendon was asked on cross- examination about removing or taking away the weapon when a person is being combative and also whether [REDACTED] weapon was his mouth. R. McClendon answered that he was trying to take away [REDACTED] weapon by punching him in the mouth. R. McClendon testified that he was never instructed or trained that if a detainee spits at you that you are supposed to strike them in the face. R. McClendon was asked about the 5 strikes to the face or to the area near the face in a matter of six seconds and whether they were successful in getting [REDACTED] under control and he answered that they were not. A few seconds later, just prior to Sergeant [REDACTED] grabbing R. McClendon, R. McClendon threw another strike at the side of

████ head. R. McClendon then testified that Sergeant █████ pulled him away because █████ was directing his spit at him, at this point in the video █████ gets in between █████ and █████ but R. McClendon begins walking back towards █████ but then █████ grabs him by the shirt and pulls him away and tells him to exit the cell. R. McClendon was asked whether █████ became less combative after he struck him multiple times and R. McClendon testified that he was combative the whole times. He was also asked if any other officers threw any punches at █████ and he answered not to his knowledge. He was also asked if Sergeant █████ and █████ were spit on by █████ and he answered in the affirmative and then testified that neither of them threw any punches at █████ R. McClendon testified that in August 2013 he weighed about 300 pounds and is six feet tall and that █████ was a little taller than him and weighed less than him. R. McClendon was asked about the importance of correctly filling out incident reports and then was asked about his report following the incident in which he only reported to striking █████ one time to the side of the stomach. R. McClendon stated that he did not mention the rest of the strikes because they were in the heat of the moment and his memory was not clear. R. McClendon was asked about his report in the hallway prior to going into the bullpen cell and whether he wrote down that he put him up against the door or whether he struck █████ in the side of the face, he responded that he did not. R. McClendon was asked if he mentioned anything in his reports about hitting █████ more than two times and he answered that no he did not.

Redirect:

R. McClendon testified that he answered the questions that Investigator █████ asked him and that he was not intentionally deceptive. He also stated that he was not counting the number of punches that he threw at █████

██████████

██████████ testified that he has been a Chicago Police Officer assigned to the Education and Training Division at the CPD where he teaches use of force and control. Prior to joining the CPD he was a Cook County Correctional Officer for 5 years. ██████████ testified that he is familiar with the Integrated Use of Force System- Protective Safety Systems that has been adopted by the Cook County Sheriff. He testified that he has undergone Protective Safety Systems training and is certified as an instructor in that specific use of force model. ██████████ then explained the Sheriff's use of force model and went through the video and discussed the various exchanges between R. McClendon and ██████████ ██████████ testified that from everything he saw in the video and with his knowledge of the Integrated Use of Force Model adopted by the Sheriff, R. McClendon's actions were reasonable. ██████████ went on to discuss the actions inside the cell and concluded that in his opinion R. McClendon's use of force was correct as far as the model went and that it was reasonable under the totality and circumstances. He also testified that R. McClendon's action were not excessive. ██████████ went on to discuss RedMan scenarios when officers are put into stressful situations and then asked to report what happened right after. ██████████ also testified based on his personal experience and his training, a physical confrontation with a resisting inmate is stressful.

Cross-examination:

██████████ was asked about the incident in the hallway between ██████████ and R. McClendon in particular he referred to the warning fist and was asked if that was something taught at the academy or if it was taught to officers at the Sheriff's Office, he response was no. ██████████ discussed the difference between a low-pressure impact strike and a direct strike; he also indicated that force is excessive measured by whether a detainee has injuries.

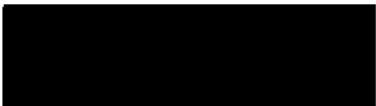
Conclusion of the Law:

Based on the evidence presented, and after assessing the credibility of witnesses and the weight given to the evidence including all the exhibits that were admitted, the Board finds that the Respondent did violate Sheriff's Order 11.2.1.0: II., V; VII., B. and E; X., A. 5, 6, and 7; XIII., A, B, and C; General Order 24.9.1.0: II., VIII., A. 1 and 2; C, ad F. 2, VIII; Sheriff's Order 11.2.20.0: II., III. VI. A. 2, B. 1. And 2; D. 3; as well as the Cook County Sheriff's Department Merit Board Rules and Regulations Article X, Paragraph B 3.


Order:

Wherefore, based on the foregoing, it is hereby order that the Sheriff's request to remove the Respondent, Robert McClendon, is granted and the Respondent shall be removed as of November 20, 2014.

Robert McClendon CO #1793



James P. Nally, Chairman



Byron Brazier, Vice-Chairman



John D'Alicandro, Secretary


Kim R. Widup, Board Member


Vincent T. Winters, Board Member


Jennifer E. Bae, Board Member


Patrick Brady, Board Member


Gray Mateo - Harris, Board Member

Date

June 1, 2016